

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Bautista et al.

)  
    ) Art Unit: 3653  
    )  
Serial Number 10/678,186      ) Examiner: N/A  
    )  
Filed October 6, 2003      ) Atty Docket: DIX009-162

For: Ultrasonic Sensor For Detecting the Dispensing of a Product

**DECLARATION EVIDENCING INABILITY TO  
OBTAIN INVENTOR SIGNATURE**

Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This document is being filed in the above-identified U.S. patent application to describe circumstances of the refusal of one of the three inventors in this application to execute the Declaration.

The application has actually been assigned by each of the remaining inventors to Maytag Corporation, with the assignment being submitted to the USPTO for recordal on even date herewith. The non-signing inventor, Mr. Dexter Bautista, is an ex-employee of Dixie-Narco, which is owned by the Maytag Corporation. After repeated attempts by Mr. Paul H. Kelly, the Director of Product Development at Dixie-Narco, Inc. to obtain the signature of Mr. Bautista for this case, I forwarded Mr. Bautista a copy of the enclosed letter and a complete copy of the patent application on April 14, 2004. The letter was sent to the last known address of Mr. Bautista which was provided by Mr. Paul Kelly as evidenced by the enclosed email. In any case, the letter re-presented a copy of the patent application to Mr. Bautista and outlined his contractual obligations to sign declaration and assignment forms under a previously executed employment agreement. My original

Serial No. 10/678,186  
Declaration Evidencing Inability to  
Obtain Inventor Signature  
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letter was re-sent to an updated address provided by Mr. Bautista (see attached email setting forth a current address for inventor as 1429 Glenn Avenue, Augusta, GA 30904 and a telephone number of (706) 364-6184). As conditions for signing, Mr. Bautista placed various compensation requirements beyond those set forth in the previously executed agreement. Attached hereto is a copy of an email of May 4, 2004 received from Mr. Bautista, a.k.a. Dex, wherein he verified receipt of the letter and accompanying papers. The email clearly outlines Mr. Bautista's decision not to sign the Declaration and Assignment for this case.

Based on the above, it has been verified by the undersigned that a copy of the application papers were received and reviewed by the non-signing inventor. Regardless, a signature of the remaining inventor could not be obtained.

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under *Section 1001 of Title 18 of the United States Code* and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Bruce P. Watson  
Sr. Corporate Intellectual Property Counsel  
Maytag Corporation  
Registration No. 35,405

Date: *May 27, 2004*



Atty. Docket Number:DIX009-142

### DECLARATION FOR PATENT APPLICATION AND APPOINTMENT OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention (Design, if applicable) entitled: Ultrasonic Sensor For Detecting the Dispensing of a Product. The specification of which (check one):

is attached hereto.

- was filed on: October 6, 2003 As Application Serial No.: 10/678,186  
 and (if applicable) was amended on:
- was filed on: As International (PCT) Application No.:  
 and (if applicable) was amended on:

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56. I hereby claim foreign priority benefits under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Claimed	
Number	Country	Day/Month/Year Filed	Yes	No

I Herby Claim the Benefit Under Title 35 U.S. Code § 119(E) of any U.S. Provisional Applications Listed Below.		
Number	Day/Month/Year Filed	
60/415,771	4 October 2002	

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application Number	Filing Date	Status-Patented, Pending or Abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:** I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Allan P. Orsund (Reg. No. 30,309); Bruce P. Watson (Reg. No. 35,405); Everett G. Diederiks, Jr. (Reg. No. 33,323); Nicholas S. Whitelaw (Reg. No. 36,418); Rebecca M. Karmy (Reg. No. 47,694); and Victor Kernus (Reg. No. 50,146).

I (we) authorize my (our) attorneys to accept and follow instructions from regarding any matter related to the preparation, examination, grant and maintenance of this application, any continuation, continuation-in-part or divisional based thereon, and any patent resulting therefrom, until I (we) or my (our) assigns withdraw this authorization in writing.

Send correspondence to: DIEDERIKS & WHITELAW, PLC  
 12471 Dillingham Square, #301  
 Woodbridge, Virginia 22192

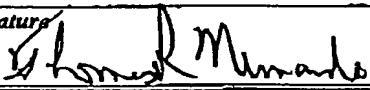
Telephone calls to:  
 (703) 583-8300

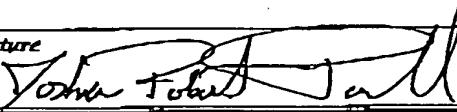
Full Name of First or Sole Inventor Dexter V. Bautista	Citizenship U.S.
Residence Address 1429 Glenn Avenue Augusta, GA 30904	Post Office Address <input checked="" type="checkbox"/> Same as Residence
Date	Signature

See following page(s) for additional joint inventors.

## DECLARATION FOR PATENT APPLICATION AND APPOINTMENT OF ATTORNEY

Page 2

<i>Full Name of Joint Inventor</i> Thomas Roger Meinardi	<i>Citizenship</i> U.S.
<i>Residence Address</i> 201 Hopeland Farms Drive Aiken, SC 29803	<i>Post Office Address</i> <input checked="" type="checkbox"/> <i>Same as Residence</i>
<i>Date</i> 10/29/03	<i>Signature</i> 

<i>Full Name of Joint Inventor</i> Joshua Robert Powell	<i>Citizenship</i> U.S.
<i>Residence Address</i> 184 Governors Lane Aiken, SC 29801	<i>Post Office Address</i> <input checked="" type="checkbox"/> <i>Same as Residence</i>
<i>Date</i> 10/29/03	<i>Signature</i> 

<i>Full Name of Joint Inventor</i>	<i>Citizenship</i>
<i>Residence Address</i>	<i>Post Office Address</i> <input type="checkbox"/> <i>Same as Residence</i>
<i>Date</i>	<i>Signature</i>

<i>Full Name of Joint Inventor</i>	<i>Citizenship</i>
<i>Residence Address</i>	<i>Post Office Address</i> <input type="checkbox"/> <i>Same as Residence</i>
<i>Date</i>	<i>Signature</i>

<i>Full Name of Joint Inventor</i>	<i>Citizenship</i>
<i>Residence Address</i>	<i>Post Office Address</i> <input type="checkbox"/> <i>Same as Residence</i>
<i>Date</i>	<i>Signature</i>

 See following page(s) for additional joint inventors.

Dixie-Narco Boulevard  
PO Drawer 719  
Williston, SC 29853-0719 USA  
Phone: 803-266-5000 Ext. 419  
Fax: 803-266-7999

# Dixie-Narco, Inc.

RECEIVED

FEB 27 2004

LAW DEPT.

February 27, 2004

Bruce Watson  
Sr. Corporate Intellectual Property Counsel  
Maytag Corporation  
403 West Fourth Street North  
Newton, Iowa 50208-0039  
Phone 641 787 8238

Dear Bruce

Enclosed please find the Confidentiality and IP agreement signed by Dexter Bautista upon his employment. Dexter's contact information that I have on file is as follows:

Dexter Bautista  
1429 Glenn Avenue  
Augusta, GA 30904  
706 364 0184 H  
803 292 8082 Cell

If you have any questions regarding the below, please feel free to give me a call.

Thank you for your time

Sincerely,

Paul Kelly  
Dixie-Narco  
Director of Product Development  
Research and Development

# **MAYTAG**

Maytag Corporation  
403 West Fourth Street North  
P.O. Box 39  
Newton, Iowa 50208-0039  
Tel: 641-792-7000

April 14, 2004

**COPY**

Dexter V. Bautista  
2535 Wagener Rd.  
Aiken, SC 29803

Dear Mr. Bautista:

I trust that Mr. Lafata explained to you that the employment contract entitled Confidentiality and Intellectual Property Rights and Non-Compete Agreement that you signed as a contingency for your employment at Dixie-Narco, a copy of which is attached hereto, contractually obligates you to sign the patent application papers previously sent to you by Paul Kelly. This contract clearly states that you:

**"assign and agree to assign to Maytag or its designee, without further compensation of consideration, but at no cost or expense to me, my entire right title and interest in and to any Non-Exempt Inventions and the rights to apply and receive patents thereon in the United States and throughout the world,.... ....and to perform all lawful acts, including the execution and delivery of all papers and proper oaths.... ....deemed necessary or desirable by Maytag for obtaining, maintaining and enforcing any and all Letters patents in the United States and throughout the world for any such Non-Exempt Inventions, and for perfecting Maytag's rights therein."**

[emphasis added]

The invention entitled "Ultra-Sonic Vend Sensor" involved here is a Non-Exempt Invention under the attached contract. Since the invention qualifies as a Non-Exempt invention, you are contractually obligated to sign the papers that are necessary for Maytag to apply for a patent application. By refusing to sign these papers, you are in breach of the attached contract and Maytag will be absolved of any future obligations under the contract, such as payment of your expenses should you be required to testify.

If you continue to refuse to sign the necessary patent application declaration and assignment papers, then Maytag will simply file the application without your signature as provided for in the U.S. Patent Rules. By law, you will still be listed in the application and on any resulting patent as a co-inventor of the invention. Refusing to sign the application and assignment papers does not change the fact that, as a listed inventor, you may be required to provide written and oral testimony regarding the inventorship and content of the patent application at issue.

**MAYTAG**

Should there be a dispute that would require testimony of the inventors to resolve, then you may be subpoenaed by any party to the lawsuit and be required to testify, regardless of whether or not you signed the application papers.

In view of the above, please reconsider your decision not to sign the application papers. A copy of the patent application entitled "Ultra-Sonic Vend Sensor" and the paperwork requiring your signature are attached hereto. If you decide to comply with your contractual obligations, then your review of the attached application and signature on the accompanying paperwork is required. If you feel that any changes or additions are needed to the enclosed application, please forward any such changes to me.

Maytag must move forward with this application. So please inform me of your decision by April 21st. If I have not heard from you by this date, then I will assume that you are continuing to refuse to sign the application papers and will proceed with filing the patent application without your signature.

Sincerely,



Bruce Watson  
Sr. Corporate Intellectual Property Counsel  
Maytag Corporation  
403 West Fourth St. North  
P.O. Box 39  
Newton, IA 50208  
Email: [bwatso@maytag.com](mailto:bwatso@maytag.com)  
Phone: (641) 787-8238  
Fax: (641) 787-8170

BW:tm

Enclosures

> Hello Bruce,  
>  
> Here is my current address:  
>  
> 1429 Glenn Avenue  
> Augusta, GA 30904  
> (706) 364-6184  
>  
> Please note my address and phone number will be changing May 15th, 2004.  
I  
> am renting a house and the owner has decided to sell it. I am in the  
> process of finding a new residence in the Augusta Area. If you send  
> something to me that will be delivered near or after May 15th 2004, please  
> e-mail me first so that I can send you my new contact information.  
>  
> Thanks,  
> Dexter V. Bautista  
>  
>  
> ----- Original Message -----  
> From: <bwatso@maytag.com>  
> To: "Dexter" <dexter@knology.net>  
> Cc: "Lafata, Joe" <jmlafata@HDP.com>; <pkelly@dixienarco.com>  
> Sent: Friday, April 23, 2004 4:10 PM  
> Subject: Re: Former Employee-Inventor  
>  
>  
> > Dear Mr. Bautista:  
> >  
> > I sent a package to you at 2535 Wagner Rd., Aiken, which apparently is  
an  
> > old address, as my package was returned to me saying that you moved. Is  
> > there an address to which I can mail a package to you? If you could  
> > provide me with a current mailing address, it would be much appreciated.  
> > Thank You.  
> >  
> > Paul:  
> >  
> > Maybe you have a more current address for Dexter than I do? Thank You.  
> >  
> > Sincerely,  
> > Bruce Watson  
> > Sr. Corporate Intellectual Property Counsel  
> > Maytag Corporation  
> > 403 West Fourth St. North  
> > P.O. Box 39  
> > Newton, IA 50208  
> > Email: bwatso@maytag.com  
> > Phone: (641) 787-8238  
> > Fax: (641) 787-8170  
> >  
> >  
> >  
> > "Dexter"  
> > <dexter@knology.n To:  
> <pkelly@dixienarco.com>  
> > et> cc:  
> <bwatso@maytag.com>, "Lafata, Joe" <jmlafata@HDP.com>  
> > Subject: Re: Former  
> Employee-Inventor



"Dexter"  
<dexter@knology.net>  
> To: <bwatso@maytag.com>  
cc: <pkelly@maytag.com>  
Subject: [Spam?] (6) Re: Former Employee-Inventor

05/04/2004 10:29 AM

Hello Bruce,

I just got your letter. My request were small and more than reasonable to protect me and my job and still provide all necessary help to MAYTAG when needed. Your decision not to comply with my few request has more than reinforced my decision not to sign your papers.

Have a nice day,  
dex

----- Original Message -----

From: <bwatso@maytag.com>  
To: "Dexter" <dexter@knology.net>  
Cc: <tmart2@maytag.com>  
Sent: Monday, April 26, 2004 9:25 AM  
Subject: Re: Former Employee-Inventor

>  
> Thank You Dexter.  
>  
> Sincerely,  
> Bruce Watson  
> Sr. Corporate Intellectual Property Counsel  
> Maytag Corporation  
> 403 West Fourth St. North  
> P.O. Box 39  
> Newton, IA 50208  
> Email: bwatso@maytag.com  
> Phone: (641) 787-8238  
> Fax: (641) 787-8170  
>  
>  
>

> "Dexter"  
> <dexter@knology.n To:  
<bwatso@maytag.com> et> cc:  
<pkelly@dixienarco.com>, "Lafata, Joe" <jmlafata@HDP.com>  
> Subject: Re: Former  
Employee-Inventor

> 04/23/2004 05:42  
> PM  
>  
>  
>  
>  
>  
>